

## **REMARKS**

Applicants submit that the Request for Continued Examination, along with the properly filed Extension of Time, filed on September 18, 2009 was deficient in responding to the outstanding Final Office Action. This was noted by the Patent Office in the Notice of Improper Request for Continued Examination dated January 15, 2010. As such, Applicants hereby file this Amendment in an effort to be fully responsive.

### **Rejection Under 35 USC 103(a)**

Claims 1, 3-15, 18, 19, 27-31 stand rejected under 35 USC 103(a) over Dev et al (US 6,451,002) in view of Simon (US 2002/0010415). Applicants traverse.

MPEP § 2143 provides that to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest **all the claim limitations**. In this case, the cited references, alone or in combination, fail to teach or suggest all the claim limitations.

Dev et al. fails to disclose a controller that exposes tissue to a “substantially constant current.” Furthermore, the Patent Office cites col 4, lin. 26-28 incorrectly as disclosing a controller that is capable of delivering a substantially constant current. Instead, this passage reads, “. . . a suitable pulse generator is connected to the electrode assembly and the **appropriate voltage applied to the electrodes.**” This is not a “substantially constant current.”

Simon fails to make up for the deficiencies of Dev et al. as Simon lacks any teaching or suggestion of a controller that is capable of delivering a substantially constant current to the exposed tissue.

Accordingly, Applicants respectfully request the rejection to be withdrawn.

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**PATENT**

In conclusion, the Applicants submit that all pending claims are in condition for allowance and request an early indication of the same. Should the Examiner have any questions that may be addressed through a teleconference, the Examiner is invited to contact the undersigned attorney.

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